

REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-5, 7-21, and 23-29 are presently active in this case, Claims 1, 5, and 12 having been amended by way of the present Amendment. Support for the amendment can be found in the specification, for example, on page 5, lines 18-29.

Claims 5, 11-17, 21, and 23-29 were indicated as containing allowable subject matter.

In the outstanding Official Action, Claims 1-5, 7-21, and 23-29 were objected to for minor informalities. The Applicant submits that the phrase “the first layer” in Claims 2, 9, 10 have antecedent basis in line 3 of Claim 1, from which they depend. Claims 5 and 12 have been amended to change “a layer” to “a first layer,” thereby providing antecedent basis for the phrase “the first layer” in claims that depend respectively therefrom. Regarding the phrase “for transmitting” in the preambles of Claims 1, 5, and 12, the Applicant respectfully submits that such a phrase is proper regardless of whether this phrase has been given patentable weight as being part of the preamble, thus it is unclear as to why the claims are being objected to for this phrase. Such phrases are commonly used, as is evident by a review of the preambles of Claims 1 (“protocol for...”) and 12 (“method for...”) in U.S. Patent No. 6,477,670 cited in the outstanding Official Action. Accordingly, the Applicant requests the withdrawal of this objection or a clarification as to why such a recitation is improper. Thus, the Applicant respectfully requests the withdrawal of the objections to the claims.

Claims 1-4 and 8 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ahmadvand (U.S. Patent No. 6,477,670) in view of Dohi et al. (U.S. Patent No. 6,341,224).

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Claims 7 and 18-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ahmadvand and Dohi et al. in view of Hwang (U.S. Patent Pub. No. 2004/0057460). Claims 9 and 10 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ahmadvand and Dohi et al. in view of Sarkkinen et al. (U.S. Patent No. 6,950,420). For the reasons discussed below, the Applicant requests the withdrawal of the art rejections.

The basic requirements for establishing a *prima facie* case of obviousness as set forth in MPEP 2143 include (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings, (2) there must be a reasonable expectation of success, and (3) the reference (or references when combined) must teach or suggest all of the claim limitations. The Applicant submits that a *prima facie* case of obviousness cannot be established in the present case because the references, either when taken singularly or in combination, do not teach or suggest all of the claim limitations.

Claim 1 of the present application recites a system comprising a first layer configured to manage a physical resource and to guarantee a quality of service by assigning a set level to the ratio of received signal power to noise plus interference, a first sub-layer, a second sub-layer, and a physical layer. The second sub-layer is configured to check whether the quality of service has been complied with. The Applicant submits that the cited references, either when taken singularly or in combination, do not disclose all of the above limitations recited in Claim 1.

The Ahmadvand reference describes a Physical Layer (20) of a UMTS radio interface that is responsible for coding and modulation of data transmitted over the air, and a Data Link

Layer (30) that is subdivided into a Radio Link Control (RLC) sublayer (70) and a Medium Access Control (MAC) sublayer (80). The Ahmadvand reference merely describes the MAC sublayer (80) as being used to multiplex RLC Protocol Data Units or RLC frames onto different transport channels (15) and possibly prioritizing them. (See, e.g., column 5, lines 6-19 and 59-61, and column 7, lines 27-31.) The Ahmadvand reference does not disclose even suggest that the MAC sublayer (80) is configured to check whether the quality of service has been complied with.

Thus, the Ahmadvand reference does not disclose or suggest a second sub-layer that is configured to check whether the quality of service has been complied with, as recited in Claim 1.

The Applicant further submits that the Dohi et al. reference does not supplement the deficiency in the teaching of the Ahmadvand reference noted above. The Dohi et al. reference does not disclose the layer and sublayered structure of the present invention. Nor does the Dohi et al. reference disclose the provision of a second sublayer that is configured to check whether the quality of service has been complied with. Thus, even if the teachings of the Dohi et al. reference were combined with the teachings of the Ahmadvand reference, a motivation would not have been provided to incorporate such a check into the MAC sublayer (80) of the Ahmadvand reference, which is merely described as being used as a multiplexer, versus some other feature such as subflow processing module (71), or the QoS planes, etc.

Thus, the Applicant respectfully submits that the combined teachings of the Ahmadvand reference and the Dohi et al. reference do not establish a *prima facie* case of

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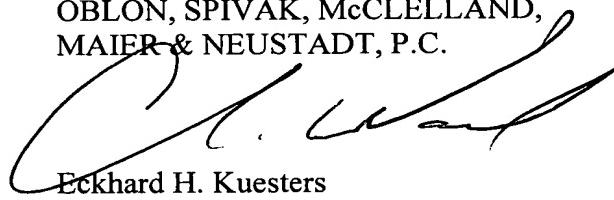
obviousness for Claim 1 of the present application. Accordingly, the Applicant requests the withdrawal of the obviousness rejection of Claim 1.

Claims 2-4, 7-10, and 18-20 are considered allowable for the reasons advanced for Claim 1 from which they depend. These claims are further considered allowable as they recite other features of the invention that are neither disclosed nor suggested by the applied references when those features are considered within the context of Claim 1.

Consequently, in view of the above discussion, it is respectfully submitted that the present application is in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully Submitted,

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